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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,570	04/25/2008	Jord Williams Poster	GCV-001	1351
22832	7590	02/16/2010	EXAMINER	
K&L Gates LLP			STRODER, CARRIE A	
STATE STREET FINANCIAL CENTER				
One Lincoln Street			ART UNIT	PAPER NUMBER
BOSTON, MA 02111-2950			3689	
			MAIL DATE	DELIVERY MODE
			02/16/2010	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/575,570	POSTER, JORD WILLIAMS	
	<b>Examiner</b>	<b>Art Unit</b>	
	CARRIE A. STRODER	3689	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 11 April 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-53 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-53 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 11 April 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>24 APR 08; 02 AUG 07; 16 JAN 07</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____ .

**DETAILED ACTION**

1. This is in response to the applicant's communication filed on 11 April 2006, wherein:

Claims 1-53 are currently pending.

***Drawings***

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because Fig. 10 is blurry and hard to read. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

***Specification***

2. The use of the trademarks **American Express, Macromedia, Macromedia Flash, and Red Sox** (particularly in Fig. 10 and pages 17 & 30) has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any

manner which might adversely affect their validity as trademarks.

***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 1-53 are rejected under 35 U.S.C. § 101** because the claimed invention is directed to non-statutory subject matter.

**Referring to claims 1-44:**

In order for a method to be considered a "process" under §101, a claimed process must either: (1) tied to a particular machine or apparatus, or (2) transforms a particular article to a different state or thing. This is called the "machine or-transformation test". *In re Bilski*, 545 F.3d 943, 88 USPQ2d 1385 (Fed. Cir. 2008). If neither of these requirements is met by the claim, the method is not a patent eligible process under §101 and is non-statutory subject matter.

There are two corollaries to the machine-or-transformation test. First, a mere field-of-use limitation is generally insufficient to render an otherwise ineligible method claim patent-eligible. This means the machine or transformation must impose meaningful limits on the method claim's scope to pass the test. Second, insignificant extra-solution activity will not

transform an unpatentable principle into a patentable process.

This means reciting a specific machine or a particular transformation of a specific article in an insignificant step, such a data gathering or outputting, is not sufficient to pass the test.

With respect to claims 1-29, the claim language does not include the required tie to a particular machine or apparatus or transformation and thus is directed to nonstatutory subject matter.

**Referring to claims 45-53:**

Claims 45-53 are directed to software, *per se*, which is not patentable subject matter. SEE MPEP 2106.01. Claims 45, for example, states that it includes databases and communications modules, both of which may be software. As system claims, claims 45-53 should include specific structure.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. **Claims 1-3, 5-6, 12-19, 37, and 40-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burke (US 6112191) .**

**Referring to claim 1:**

Burke teaches

communicating information about the merchandise to a purchaser, the information comprising a price, identities of charitable organizations from a database of charitable organization generated by a predetermined variable, and a donation amount to be allocated to the charitable organizations upon the purchase of the merchandise (col. 5, line 54 thru col. 6, line 45 and col. 10, line 55 thru col. 11, line 6; "...a consumer in a shop, supermarket, gasoline station, department store, etc. selects the desired merchandise and brings them to a clerk" and "the computer electronically transfers all amounts allocated to each charity..." and "...the list of charities or institutions that have been accepted by the system");

receiving from the purchaser an offer to purchase the merchandise (col. 5, line 54 thru col. 6, line 45; "...a consumer in a shop, supermarket, gasoline station, department store, etc. selects the desired merchandise and brings them to a clerk" implies an offer to purchase); and

receiving from the purchaser an identity of a charitable organization to which the donation amount is to be allocated

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(col. 10, line 55 thru col. 11, line 24; "...the list of charities or institutions that have been accepted by the system" and "...the computer asks if the consumer wishes to have a temporary account set up for that donee...").

**Referring to claims 2 and 46:**

Burke teaches wherein said predetermined variable is selected from the group of purchaser location, purchaser charitable preferences, venue location, ticket source preference, third party preference and charitable category (col. 10, line 55 thru col. 11, line 24; "...the computer in step 448 asks if the consumer wishes to have a temporary account set up for that donee or institution...").

**Referring to claim 3:**

Burke teaches wherein said purchaser further identifies more than one charitable organization to which said donation amount is to be allocated (col. 10, line 55 thru col. 11, line 24; "Once the computer has qualified a donee or institution, it goes to step 450 to ask if this is the last account the consumer wishes to add. If not, the process goes back to step 444. If yes, the computer cancels all prior allocations in step 454 and in step 457 sequentially lists all remaining and new accounts showing the old allocations where applicable. In step 460 it

asks the consumer to enter a new percentage allocation for each account.").

**Referring to claim 5:**

Burke teaches wherein the donation amount is expressed as a fixed dollar amount (col. 5, line 63 thru col. 6, line 8; "The consumer can also enter into the keypad how much of the total change he or she is to receive, should be credited to various predetermined accounts in the CCC").

**Referring to claim 6:**

Burke teaches obtaining the merchandise from a seller at a cost (col. 5, lines 54-62; "...a consumer in a shop, supermarket, gasoline station, department store, etc. selects the desired merchandise and brings them to a clerk" and where it is implied that the shop owner, merchant, etc., obtains the merchandise at a cost).

**Referring to claim 12:**

Burke teaches qualifying said charitable organizations prior to communicating the identities of the charitable organizations to the purchaser (col. 9, lines 50-62; "...the non-subscriber will pick from a list of approved charities...").

**Referring to claim 13:**

Burke teaches wherein the qualification comprises determining that each of the charitable organizations is

recognized as a charitable organization by the Internal Revenue Service (col. 8, lines 30-37; "Prior to listing in the CCC, the invention qualifies each charity for their tax exempt status, operations, management activities, litigation, and other pertinent legal and financial information").

**Referring to claim 14:**

Burke teaches receiving, from the purchaser, payment for the merchandise (col. 5, lines 54-62; "The consumer offers the clerk either the exact amount of cash or a sum exceeding the price").

**Referring to claim 15:**

Burke teaches sending the donation amount to said identified charitable organization (col. 6, lines 37-45; "...the computer electronically transfers all amounts allocated to each charity CHy immediately").

**Referring to claim 16:**

Burke teaches wherein said purchaser further identifies a percentage allocation said purchaser's preferred allocation of the donation amount to each of said identified charitable organizations (col. 11, lines 6-24; "In step 460 it asks the consumer to enter a new percentage allocation for each account").

**Referring to claim 17:**

Burke teaches wherein at least one of the identities of said charitable organizations is not included in the identities of the charitable organizations (col. 10, line 55 thru col. 11, line 6; "...it determines if the account, in the form of a charity, merchant, or institution, is in the list of charities or institutions that have been accepted by the system. If the answer is no, the computer in step 448 asks if the consumer wishes to have a temporary account set up for that donee or institution pending investigation").

**Referring to claim 18:**

Burke teaches transmitting a confirmation to the purchaser (col. 6, lines 23-31; "For each deposit or donation made, the SP receives a printed receipt for the transaction from the ECRx or RTx").

**Referring to claim 19:**

Burke teaches wherein the confirmation comprises one or more of the price, a description of the merchandise, the donation amount, a customizable acknowledgment from said charitable organization, and the identified charitable organizations (col. 6, lines 23-31; "For each deposit or donation made, the SP receives a printed receipt for the transaction from the ECRx or RTx" and where "printed receipt of

the transaction" implies at least price, description, and donation amount).

**Referring to claim 37:**

Burke teaches

receiving information about merchandise from a seller of the merchandise, the information comprising a price, a donation amount to be allocated to a charitable organization, and identities of charitable organizations from a database comprising a list of organizations generated by predetermined variables to which the donation amount can be allocated (col. 5, line 54 thru col. 6, line 45 and col. 10, line 55 thru col. 11, line 6; "...a consumer in a shop, supermarket, gasoline station, department store, etc. selects the desired merchandise and brings them to a clerk" and "the computer electronically transfers all amounts allocated to each charity..." and "...the list of charities or institutions that have been accepted by the system");

submitting an offer to purchase the merchandise (col. 5, line 54 thru col. 6, line 45; "...a consumer in a shop, supermarket, gasoline station, department store, etc. selects the desired merchandise and brings them to a clerk" implies an offer to purchase); and

submitting an identity of a charitable organization to which the donation amount is to be allocated (col. 10, line 55 thru col. 11, line 24; "...the list of charities or institutions that have been accepted by the system" and "...the computer asks if the consumer wishes to have a temporary account set up for that donee...") .

**Referring to claim 40:**

Burke teaches transmitting payment information for the merchandise to the seller (col. 6, line 57 thru col. 7, line 2; "...the clerk enters the prices of the various pieces of merchandise, either by way of a keyboard (not shown) or a bar code reader BCRx, into the cash register...") .

**Referring to claim 41:**

Burke teaches submitting identities of more than one charitable organizations to which said donation amount is to be allocated (col. 10, line 55 thru col. 11, line 24; "Once the computer has qualified a donee or institution, it goes to step 450 to ask if this is the last account the consumer wishes to add. If not, the process goes back to step 444. If yes, the computer cancels all prior allocations in step 454 and in step 457 sequentially lists all remaining and new accounts showing the old allocations where applicable. In step 460 it asks the

consumer to enter a new percentage allocation for each account.").

**Referring to claim 42:**

Burke teaches submitting a percentage allocation, the percentage allocation indicating a preferred allocation of the donation amount among the more than one charitable organizations (col. 11, lines 6-24; "In step 460 it asks the consumer to enter a new percentage allocation for each account").

**Referring to claim 43:**

Burke teaches wherein the more than one identified charitable organizations comprises one or more charitable organization not included in the identities of charitable organizations (col. 10, line 55 thru col. 11, line 6; "...it determines if the account, in the form of a charity, merchant, or institution, is in the list of charities or institutions that have been accepted by the system. If the answer is no, the computer in step 448 asks if the consumer wishes to have a temporary account set up for that donee or institution pending investigation").

**Referring to claim 44:**

Burke teaches wherein the offer to purchase the merchandise and the preferred allocation are submitted substantially simultaneously (col. 9, lines 22-62; where the offer to purchase

occurs when the customer brings the merchandise to the register for check-out and the allocation occurs at the time of check-out).

**Referring to claim 45:**

Burke teaches a merchandise database for storing information associated with merchandise to be sold, the information comprising a price and a donation amount (col. 5, line 54 thru col. 6, line 31; "The clerk inputs the price of all items in a ECRx by way of a register keyboard or a bar code reader and the register totals the price" and "After receiving the data, the ECR accesses the CCC. The latter allocates the change, a portion of the change, or the amount of a direct deposit provided by the SP among various charity accounts CA and other accounts OA in the CCC. The distributions to various accounts are preprogrammed commands which the consumer has previously instructed the CCC to complete. For each deposit or donation made, the SP receives a printed receipt of the transaction from the ECRx or RTx." imply that the cash register and CCC contain a database which stores said information); a charity database for storing information associated with charitable organizations, wherein a list of charitable organizations may be generated by a predetermined variable from

said charity database (col. 5, line 54 thru col. 6, line 31; "After receiving the data, the ECR accesses the CCC. The latter allocates the change, a portion of the change, or the amount of a direct deposit provided by the SP among various charity accounts CA and other accounts OA in the CCC. The distributions to various accounts are preprogrammed commands which the consumer has previously instructed the CCC to complete. For each deposit or donation made, the SP receives a printed receipt of the transaction from the ECRx or RTx." imply that the CCC contains a database which stores said information);

a first communications module in electronic communication with the merchandise database for sending the information associated with the merchandise to be sold and the information associated with the charitable organizations to a purchaser of the merchandise (col. 5, line 54 thru col. 6, line 31; "After receiving the data, the ECR accesses the CCC. The latter allocates the change, a portion of the change, or the amount of a direct deposit provided by the SP among various charity accounts CA and other accounts OA in the CCC. The distributions to various accounts are preprogrammed commands which the consumer has previously instructed the CCC to complete. For each deposit or donation made, the SP receives a printed receipt of the transaction from the ECRx or RTx."); and

a second communications module for receiving, from the purchaser, an offer to purchase the merchandise and identity of a charitable organization to which the donation amount is to be allocated (col. 5, line 54 thru col. 6, line 31; "After receiving the data, the ECR accesses the CCC. The latter allocates the change, a portion of the change, or the amount of a direct deposit provided by the SP among various charity accounts CA and other accounts OA in the CCC. The distributions to various accounts are preprogrammed commands which the consumer has previously instructed the CCC to complete. For each deposit or donation made, the SP receives a printed receipt of the transaction from the ECRx or RTx.").

**Referring to claim 47:**

Burke teaches a commerce module for receiving and processing payment instructions from the purchaser of the merchandise (col. 6, line 57-col. 7, line 21; " However, the invention allows the SP to withdraw moneys from a credit balance in one of the accounts recorded in the CCC.").

**Referring to claim 48:**

Burke teaches wherein said second communications module may receive an identity of more than one charitable organization to which said donation amount is to be allocated (col. 10, line 55 thru col. 11, line 24; "Once the computer has qualified a donee

or institution, it goes to step 450 to ask if this is the last account the consumer wishes to add. If not, the process goes back to step 444. If yes, the computer cancels all prior allocations in step 454 and in step 457 sequentially lists all remaining and new accounts showing the old allocations where applicable. In step 460 it asks the consumer to enter a new percentage allocation for each account.").

**Referring to claim 49:**

Burke teaches an allocation module for allocating the donation amount among the two or more identified charitable organizations (col. 10, line 55 thru col. 11, line 24; "Once the computer has qualified a donee or institution, it goes to step 450 to ask if this is the last account the consumer wishes to add. If not, the process goes back to step 444. If yes, the computer cancels all prior allocations in step 454 and in step 457 sequentially lists all remaining and new accounts showing the old allocations where applicable. In step 460 it asks the consumer to enter a new percentage allocation for each account.").

**Referring to claim 50:**

Burke teaches wherein the allocation module further affects payment to the two or more identified charitable organizations

(col. 6, lines 37-45; "...the computer electronically transfers all amounts allocated to each charity CHy immediately").

**Referring to claim 51:**

Burke teaches a payment database for storing information associated with the affected payments (col. 5, line 54 thru col. 6, line 31; "After receiving the data, the ECR accesses the CCC. The latter allocates the change, a portion of the change, or the amount of a direct deposit provided by the SP among various charity accounts CA and other accounts OA in the CCC. The distributions to various accounts are preprogrammed commands which the consumer has previously instructed the CCC to complete. For each deposit or donation made, the SP receives a printed receipt of the transaction from the ECRx or RTx.").

**Referring to claim 52:**

Burke teaches a reporting module for generating reports describing one or more of the data in the merchandise database, the data in the charity database, and the data in the payment database (col. 5, line 54 thru col. 6, line 31; "After receiving the data, the ECR accesses the CCC. The latter allocates the change, a portion of the change, or the amount of a direct deposit provided by the SP among various charity accounts CA and other accounts OA in the CCC. The distributions to various accounts are preprogrammed commands which the consumer has

previously instructed the CCC to complete. For each deposit or donation made, the SP receives a printed receipt of the transaction from the ECRx or RTx." and where the "receipt" is interpreted as a report).

**3. Claims 4, 7-11, 20-36, 38-39, and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burke (US 6112191), in view of Baker (US 20040093302).**

**Referring to claim 4:**

Burke does not teach; however, Baker teaches wherein the donation amount is expressed as a percentage of the price (paragraph 96; "In one embodiment, the system 10 may also allow the provider to select a certain percentage or amount of the proceeds that will go to the charitable or nonprofit entity.").

It would have been obvious for a person of ordinary skill in the art (PHOSITA) at the time of invention to modify the teachings of Burke as taught by Baker because Baker provides a system in which smaller entities and individuals may cheaply sell goods on-line and may donate the proceeds of the sale to charity.

**Referring to claim 7:**

Burke does not teach; however, Baker teaches wherein the donation amount is the difference between the price and the cost (paragraph 96; "...some providers might choose to keep the face

value of the tickets and donate any additional monies above the face value of the tickets to the charitable entity") .

**Referring to claim 8:**

Burke does not teach; however, Baker teaches wherein the donation is the difference between the price and the sum of the cost and one or more fees (paragraphs 62, 93-96; "...the system (e.g., the owner or operator of system may charge a seller a fixed fee or a certain percentage of the sales price for use of the system)") .

**Referring to claim 9:**

Burke does not teach; however, Baker teaches wherein the one or more fees comprise one or more of a delivery fee, an administrative fee, a ticket source fee, and a processing fee (paragraph 62; "...the system (e.g., the owner or operator of system may charge a seller a fixed fee or a certain percentage of the sales price for use of the system)" and where the fee for the use of the system is interpreted as an administrative fee) .

**Referring to claim 10:**

Burke does not teach; however, Baker teaches wherein the merchandise is one or more tickets to an event (paragraph 53; "Once the user has registered and logged in, system 10 will query the user for general attributes of the tickets the user

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desires to sell (e.g., the number of tickets, and the section number, row, and face value of the tickets)").

**Referring to claim 11:**

Burke does not teach; however, Baker teaches wherein said one or more tickets are confirmed to be authentic prior to said communicating information about the merchandise (paragraph 53; "Once the user has registered and logged in, system 10 will query the user for general attributes of the tickets the user desires to sell (e.g., the number of tickets, and the section number, row, and face value of the tickets)" and "The system 10 then queries the user for further detailed information describing the tickets, such as the seat numbers of the tickets, and personal comments regarding the tickets.").

**Referring to claim 20:**

Burke teaches receiving offers to purchase the merchandise from one or more of the consumers, each of the offers comprising an offer price (col. 5, line 54 thru col. 6, line 45; "...a consumer in a shop, supermarket, gasoline station, department store, etc. selects the desired merchandise and brings them to a clerk" implies an offer to purchase); communicating to the purchaser an indication the purchaser's offer was accepted, and identities of charitable

organizations from a database comprising a list of charitable organizations generated by predetermined variables (col. 5, line 54-col. 6, line 45 and col. 10, line 55 thru col. 11, line 24; and where acceptance is implied by checking out the customer); receiving from the purchaser an identity of a charitable organization to which a portion of the winning offer price is to be allocated (col. 10, line 55 thru col. 11, line 24; "...the list of charities or institutions that have been accepted by the system" and "...the computer asks if the consumer wishes to have a temporary account set up for that donee..." and where the price paid for the merchandise is interpreted as the "winning offer price"); and

allocating a portion of the winning offer price to said charitable organization (col. 6, lines 37-45 and col. 11, lines 7-24; and where the price paid for the merchandise is interpreted as the "winning offer price") .

Burke does not teach; however, Baker teaches selecting one of the offers as a winning offer (paragraphs 98-102; where "auction" implies the highest bid will be selected); and

designating the consumer who submitted the winning offer as a purchaser of the merchandise (paragraphs 98-102; where

"auction" implies that the person submitting the winning offer is the purchaser).

It would have been obvious for a person of ordinary skill in the art (PHOSITA) at the time of invention to modify the teachings of Burke as taught by Baker because Baker provides a system in which smaller entities and individuals may cheaply sell goods on-line and may donate the proceeds of the sale to charity.

**Referring to claim 21:**

Burke does not teach; however, Baker teaches wherein the information comprises a percentage of the sale proceeds that will be donated to charitable organizations (paragraph 96; "In one embodiment, the system 10 may also allow the provider to select a certain percentage or amount of the proceeds that will go to the charitable or nonprofit entity.").

**Referring to claim 22:**

Burke teaches wherein the information comprises a fixed dollar amount of the sale proceeds that will be donated to said charitable organization (col. 5, line 63 thru col. 6, line 8; "The consumer can also enter into the keypad how much of the total change he or she is to receive, should be credited to various predetermined accounts in the CCC").

**Referring to claim 23:**

Burke teaches obtaining the merchandise from a seller at a cost (col. 5, lines 54-62; "...a consumer in a shop, supermarket, gasoline station, department store, etc. selects the desired merchandise and brings them to a clerk" and where it is implied that the shop owner, merchant, etc., obtains the merchandise at a cost).

**Referring to claim 24:**

Burke does not teach; however, Baker teaches wherein the portion of the offer price allocated to the charitable organizations is a difference between the winning offer price and the cost (paragraph 96; "...some providers might choose to keep the face value of the tickets and donate any additional monies above the face value of the tickets to the charitable entity").

**Referring to claim 25:**

Burke does not teach; however, Baker teaches wherein the portion of the offer price is a difference between the winning offer price and the sum of the cost and one or more fees (paragraphs 62, 93-96; "...the system (e.g., the owner or operator of system may charge a seller a fixed fee or a certain percentage of the sales price for use of the system)").

**Referring to claim 26:**

Burke does not teach; however, Baker teaches wherein the one or more fees comprise a delivery fee, an administrative fee, and a processing fee (paragraph 62; "...the system (e.g., the owner or operator of system may charge a seller a fixed fee or a certain percentage of the sales price for use of the system)" and where the fee for the use of the system is interpreted as an administrative fee).

**Referring to claim 27:**

Burke teaches receiving, from the seller, the identities of charitable organizations (col. 10, line 55 thru col. 11, line 24; "Once the computer has qualified a donee or institution, it goes to step 450 to ask if this is the last account the consumer wishes to add. If not, the process goes back to step 444. If yes, the computer cancels all prior allocations in step 454 and in step 457 sequentially lists all remaining and new accounts showing the old allocations where applicable. In step 460 it asks the consumer to enter a new percentage allocation for each account.").

**Referring to claim 28:**

Burke does not teach; however, Baker teaches wherein the merchandise is one or more tickets to an event (paragraph 53; "Once the user has registered and logged in, system 10 will query the user for general attributes of the tickets the user

desires to sell (e.g., the number of tickets, and the section number, row, and face value of the tickets)").

**Referring to claim 29:**

Burke does not teach; however, Baker teaches a step confirming authenticity of said one or more tickets prior to said communicating information about the merchandise to consumers (paragraph 53; "Once the user has registered and logged in, system 10 will query the user for general attributes of the tickets the user desires to sell (e.g., the number of tickets, and the section number, row, and face value of the tickets)" and "The system 10 then queries the user for further detailed information describing the tickets, such as the seat numbers of the tickets, and personal comments regarding the tickets.").

**Referring to claim 30:**

Burke teaches qualifying the charitable organizations prior to communicating the identities of charitable organizations to the purchaser (col. 9, lines 50-62; "...the non-subscriber will pick from a list of approved charities...").

**Referring to claim 31:**

Burke teaches receiving, from the purchaser, payment for the merchandise (col. 5, lines 54-62; "The consumer offers the

clerk either the exact amount of cash or a sum exceeding the price").

**Referring to claim 32:**

Burke teaches sending the portion of the winning price to the two or more identified charitable organizations (col. 6, lines 37-45; "...the computer electronically transfers all amounts allocated to each charity CHy immediately").

**Referring to claim 33:**

Burke teaches wherein said purchaser further identifies more than one charitable organization to which said donation amount is to be allocated (col. 10, line 55 thru col. 11, line 24; "Once the computer has qualified a donee or institution, it goes to step 450 to ask if this is the last account the consumer wishes to add. If not, the process goes back to step 444. If yes, the computer cancels all prior allocations in step 454 and in step 457 sequentially lists all remaining and new accounts showing the old allocations where applicable. In step 460 it asks the consumer to enter a new percentage allocation for each account.").

**Referring to claim 34:**

Burke teaches wherein the portion of the winning price is allocated to each of said identified charitable organizations in

shares (col. 11, lines 6-24; "In step 460 it asks the consumer to enter a new percentage allocation for each account").

**Referring to claim 35:**

Burke teaches receiving from the purchaser a percentage allocation, the percentage allocation indicating the purchaser's preferred allocation of the portion of the winning price among each of the said identified charitable organizations (col. 11, lines 6-24; "In step 460 it asks the consumer to enter a new percentage allocation for each account").

**Referring to claim 36:**

Burke teaches sending portions of the winning price to said charitable organizations according to the percentage allocation (col. 6, lines 37-45; "...the computer electronically transfers all amounts allocated to each charity CHy immediately").

**Referring to claim 38:**

Burke does not teach; however, Baker teaches wherein the donation amount is expressed as a percentage of the price (paragraph 96; "In one embodiment, the system 10 may also allow the provider to select a certain percentage or amount of the proceeds that will go to the charitable or nonprofit entity.").

**Referring to claim 39:**

Burke does not teach; however, Baker teaches wherein the merchandise is one or more tickets to an event (paragraph 53;

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"Once the user has registered and logged in, system 10 will query the user for general attributes of the tickets the user desires to sell (e.g., the number of tickets, and the section number, row, and face value of the tickets)").

**Referring to claim 53:**

Burke does not teach; however, Baker teaches a fee processing module for determining one or more fees associated with the offer to purchase the merchandise (paragraph 62).

***Conclusion***

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:
  - a. Rau et al. (US 20010007099);
  - b. Yanase (US 20020178064);
  - c. McNee (US 20030065572);
  - d. Price (US 20020120539);
  - e. Gzybowski (US 20020062173);
  - f. Horn (US 20020116214);
  - g. Owens (US 20030004831);
  - h. Okubo et al. (US 20030144921); and
  - i. Lange (US 20040181436).

***Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARRIE A. STRODER whose telephone number is (571)270-7119. The examiner can normally be reached on Monday - Thursday 8:00 a.m. - 5:00 p.m. ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jan Mooneyham can be reached on (571)272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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